

Meeting of 1997-10-14 Regular Meeting

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
OCTOBER 14, 1997 - 6:00 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Charles Beller, Mayor Pro Tem, Also Present:
Presiding Gil Schumpert, City Manager
 Felix Cruz, City Attorney
 Sandra Rench, Deputy City Clerk

The meeting was called to order at 6:35 by Mayor Pro Tem Beller. Notice of meeting and agenda were posted on the City Hall bulletin board as required by law.

ROLL CALL

PRESENT: Jody Maples, Ward One
 Richard Williams, Ward Two
 Jeff Sadler, Ward Three
 John Purcell, Ward Four
 Robert Shanklin, Ward Five
 Charles Beller, Ward Six
 Carol Green, Ward Seven
 Randy Warren, Ward Eight

ABSENT: John T. Marley, Mayor

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETING OF SEPTEMBER 23, 1997

MOTION by Williams, SECOND by Sadler, to approve the Minutes of Lawton City Council regular meeting of September 23, 1997. AYE: Beller, Green, Warren, Maples, Williams, Sadler, Purcell, Shanklin. NAY: None. MOTION CARRIED.

AUDIENCE PARTICIPATION:

Paul Hayes, 2201 NW 22nd Street, asked if the Council members had any questions on his baling lease which was discussed at the last City Council meeting in regard to the amount of bales of hay to a round bale and his amended contract.

Shanklin said he was told this was going to be on the Agenda and asked Mr. Huck when it was going to be on and if he had asked for it to be on the Agenda.

Huck said during the staff review of the Agenda the item was removed because there were a couple of issues of compliance as well as whether they wanted to amend or cancel the contract. He said there is a clause in the contract that if they wish to cancel on a 30-day notice they could do so but felt it was premature to bring it back at this time. He said both lessees are complying with the current lease and at this time didn't feel there was anything to be brought forth because Mr. Hayes was baling his area at Lake Ellsworth and Mr. Hillary has completed his at Lake Lawtonka. He said unless there is something that would cause them to feel that Mr. Hayes is not in compliance to the lease then they would bring something back to them. He said Hayes has until the end of the year to bale his area, he has completed tract number 9 and there are 4 other areas he hasn't started.

Shanklin said in regard to extending the square bale from \$.57 to the round bale at \$8.32 asked if that was correct. Hayes said the contract agreement was amended to \$4.25 from the square bales to the round bales.

Shanklin asked if there were 10 to 16 bales. Hayes said the number doesn't have much to do with it because you can't get many from a round bale, it is not the quality of hay but the quantity of hay you put in a bale and the way they feed it and it is not feasible to do that. Shanklin asked why they have the round bales then. Hayes said because it is what the farmers want, they don't want the square bales any more, just the local people who have horses and some of the hay they ship out of state is in square bales but there is a very small call for square bales.

Shanklin said Hayes had told him he shouldn't have been given the contract. Hayes said the contract was brought up in February and bid on it but had not completed his bid. He said he was told by Joe Henson that he was boss, that Hayes had bid on it and that Henson was going to give Hayes the contract. Hayes said that when he told Henson he hadn't completed his contract Henson told him he would just have to do it in square bales and Hayes told him he couldn't do it in square bales and Henson told him that he would be awarded the contract. Hayes said he couldn't find enough buyers to cut 700 acres of square bales and found out who was boss and went to visit with Dick Huck and John Veal and was told they could probably amend the contract when he got ready to do round bales and then he received a letter that it wasn't feasible to amend the contract and that it wasn't legal. He said he then went to see Mr. Veal who told him the only way he could do it would be to amend the contract, to write what he thought would be reasonable and what he was going to do and they would take it to the legal department to see if it was legal. He said the legal department passed it and is where they stand now. He said he didn't get this amendment until September and it is now nearly impossible to cut all of this contract by his due date but he will do the best he can. He said he will get all the recreation areas cleaned up and will leave the big fields out away from everything on a second growth and cut it next year two in one.

Shanklin said that is fine and he was told he was low bidder on two other pieces of property that he didn't get. Hayes said he was high bidder on an agricultural lease for three items and there was a tie bid on two items and Joe Henson awarded the contract to the other gentlemen which was fine it was all honest and that was the way he wanted it.

Beller said Mr. Henson does not award the contracts, the City Council awards the contracts and asked if everyone was satisfied with the information.

Hayes said he was satisfied with the information he just wanted to bring it up to see if anyone had any questions because his name was brought up at the last Council meeting and wanted it cleared up.

Beller asked Huck if they are meeting the requirements of the contract.

Huck said they are.

Schumpert said the recommended Council action on Agenda Item 20 on the Consent Agenda has been amended to read "Pass a motion to adopt Resolution No. 97- authorizing the installation and/or removal of traffic control devices at the specified locations."

UNFINISHED BUSINESS: NONE.

BUSINESS ITEMS:

1. Hold a public hearing and consider an ordinance changing the zoning from R-1 (Single Family Dwelling District) to R-3 (Multiple Family Dwelling District) zoning classification located at #8 NW 40th Street. EXHIBITS: ORDINANCE NO. 97- 50; LOCATION MAP; SITE PLAN; APPLICATION; MEMORANDUM FROM PRINCIPAL PLANNER; LMAPC MINUTES.

Bigham reviewed the background information and pointed out the location of the proposed rezoning on the location map shown on the overhead map.

"BACKGROUND: The purpose of the request is to allow a second access for a proposed branch bank facility to be constructed at 4005 West Gore Boulevard by the Bank of Elgin.

The zoning of the surrounding area is R-1 (Single-Family Dwelling District) to the north, south, and east, and C-1 (Local Commercial District) to the west. The land use of the surrounding area is single-family residential to the north, south, and east, and commercial/office to the west. The current use of the requested area is single-family residential. The vacant single-family residence will be removed and a driveway constructed.

The Lawton Metropolitan Area Planning Commission recommended approval from R-1 to R-3 and conditionally approve a Use Permitted on Review for a driveway associated with the commercial activity."

Warren said if this is approved and the driveway installed asked if there was a utility easement in the back of the property and if they would be paving over a utility easement. Bigham said yes.

Shanklin asked if they had requested a cut on Gore and why they weren't given one. Bigham said they have a driveway on their site plan approved on Gore.

Shanklin asked if there was a median cut was requested. Schumpert said he talked to Mr. Buddy Green who indicated he hadn't requested a median change on Gore, that it was someone else who requested it. He said Mr. Green's solution was to get the property rezoned for an alternate entrance from Gore to allow traffic to enter from

the east and could also use this entrance and that he had personally never asked for a median or extension of a turnbay.

Bigham said Mr. Green has proposed a de-acceleration lane on the west.

Shanklin said he talked with Mr. Green and received a different answer. Sadler said he received the same answer as Mr. Shanklin.

Schumpert said Mr. Green, his attorney Nick Garrett, and Perry Horacek, the design engineer were in his office and he was told the information provided was his solution, he had not requested a median that another gentleman had asked for it and it was not his intention to ask for an extension of the turn bay.

Bigham said if Mr. Green wants to put in a request for a median cut that would be a separate action to be brought back to the Council.

Shanklin said that would be additional work and expense when a median cut would have done the same thing. He said a traffic engineer had his job abolished because he wouldn't sign off on one in the 1100 block of Lee Boulevard. Bigham said there is a Council Policy that sets it up.

Beller said the discussion was not germane to the rezoning and could get into that later if needed.

PUBLIC HEARING OPENED.

Gwyn Coggins, #4 NW 40th Street, said she has lived in the same house since 1961 and read a statement: "When we, the property owners, found out that Mr. Buddy Green is a member of LMAPC we realized it was a waste of time to circulate a petition against the rezoning of #8 NW 40th. We also understood why he removed the curbing on the property and was allowed to use the property to move all the heavy equipment and trucks onto the property before the rezoning was even voted on by the City Council." Coggins said the only recourse left to them was to address the traffic issues on 40th Street and asked if a traffic study had been done for 40th Street in recent years and thought there hadn't been. She asked if anyone had checked on the number of traffic accidents on 40th and Gore and thought not but the neighbor on the corner has had cars end up in her yard due to accidents and had counted seven accidents on that corner this past summer. She asked if anyone had checked on the number of speeding tickets on 40th Street near the Pecan Grove Elementary School on 40th Street and didn't think they had. She said Police Officer Burch, who lives on 40th Street between Gore and the elementary school was going to try to be present this evening and had told her he had issued over 100 speeding tickets this summer on 40th Street. She said that should be a concern to all of them because of the children that walk on the street.

Beller asked if Ms. Coggins was saying that Officer Burch had personally issued over 100 tickets. Ms. Coggins said that was correct.

Coggins said she didn't think anyone had checked this because the traffic problems have not been addressed on 40th Street and it is going to be multiplied by putting in the driveway. She said 40th is supposed to be a residential street not a major business road such as Gore, Sheridan and Cache Road. She said the residents know a drive is going to be put in there because it is already a driveway. She said they just resurfaced the street and it is going to be worn out because every one of the trucks have been going up 40th Street. She said the first suggestion the residents would like to make to Council would be to have a median on Gore Boulevard because it would allow people coming from the west to turn into the business, the alternative would be to come up to 40th Street and make a U-turn, which causes accidents, or to turn onto 40th Street and into the proposed drive. She said they would like to see the speed limit lowered from the school to Gore because although it is 25 mph when people drive onto 40th from Gore they are driving as fast as they can and it may take a traffic officer setting out there 24 hours a day. She said if cars are coming out of the drive the problem will be compounded. Coggins said she understands the bank is the only business that is going to be constructed on the property at 4005 Gore and suggested they put chains across the driveway at close of business each day to keep unauthorized vehicles from entering and using the somewhat isolated area at night as a gathering place which Mr. Green may have considered doing. She said closing the entrances would also keep people from taking short cuts through the bank when it is closed. She said they think of the area as residential but it is becoming more of a business area all the time and she didn't understand how they were able to cut out the curb and gravel it for use before it was voted on. She said she called several Council members and Mr. Bigham and since then has seen trucks coming in with gravel on Gore, dumping it and going back out the driveway.

Sherry Ann Newell, #5 NW 40th, said she lives almost directly across from the industrial site and has never lived in a war zone but has learned what it must be like because of the noise that starts at 7:30 a.m. and goes until almost 10:00 p.m. with the huge, heavy trucks going up and down the street all hours of the day and night, including Saturday and Sunday. She said this has all been done while they were under the delusion that this was yet to be voted on and has made it a very bitter and disillusioning experience for the residents on 40th Street. She said she has had to pick up heavy and small chunks of dirt out of her yard to avoid the extreme danger of having them fly up

and hit her if they were hit by a lawnmower and this has been a nightmare for those who live in the area. She said they know it is a done deed and there is nothing they can do about the situation that has already happened but she is also very concerned about the traffic situation. She said she can hardly back out of her driveway now and couldn't imagine the exponential increase in this problem with the traffic pattern that started with the heavy trucks dumping gravel and mud all over the street. She said her main concern is the traffic on 40th Street which is supposed to be a residential area, if this continues with the heavy industrial traffic coming and going there are going to be a series of accidents because the truth is that they can't see over the top of the hill. She said if a median break could be cut it would alleviate the traffic situation that will only get worse on Gore and hoped they would take their request under consideration.

Williams asked Ms. Coggins and Ms. Newell if they received a notice from the Planning Commission. Newell said in reference to the meeting on the 10th they received notice but they weren't able to be present at the meeting, those on the south were in Oklahoma City, the Coggins were in Colorado and she was out of town and they couldn't be present on the 10th.

Chuck Henson, 1806 NE 29th Street, President of the Bank of Elgin said he appreciated and shared the concerns of the residents and regretted any inconvenience the construction has caused them. He said he doesn't know anything about what conversations have taken place regarding a curb cut, but at this time there is no curb cut to the property at 4005 Gore, therefore, in order to have access for eastbound traffic on Gore to the bank without making a U-turn, this was the only solution they could see. He said it also provides the residents of the Meadowbrook area access to a bank without having to cross any major thoroughfares. He said regarding their concern with a reduction in the speed limit, that won't bother them and chaining the entrances won't bother them but unfortunately, during the construction there will be heavy equipment and noise and there isn't anything they can do about it. He said all they can do is try to be a good neighbor and all the people that border their property on the east will have a new fence behind them that will meet or exceed City Code which will be attractive, there will be green space, shrubbery etc. to muffle the noise and they will hold normal business hours except for Saturday mornings. He said he regretted the inconvenience but saw this as the only solution and hoped to be a good neighbor and addition to the City of Lawton.

Shanklin asked if they have gone too far to request a median cut. Henson said he didn't know, Mr. Green is their chairman as well as the contractor and didn't know his stance at this time. He said the property was acquired with this in mind.

Shanklin asked if the house had been torn down. Henson said it had been torn down.

Shanklin said it probably has gone too far.

Sadler said he had spoken with the bank and Mr. Green and was under the impression he would like to have the median opening and if they had the opening on 40th they would have both, if they could proceed with the zoning and the driveway on 40th they could come back as soon as they can for the cut in the median which will hopefully keep some of the traffic off 40th, keeping as much of the traffic on Gore as possible. He said approving this doesn't mean they can't proceed with the other one. He said he talked with several of the neighbors concerned with the traffic on 40th and thinks rather than making U-turns they need to do that. He said the Council Policy provides that they aren't supposed to have more than one median cut within 400 feet and 40th Street isn't that far away but they need to take a look at that.

Beller said that would probably be something they need to discuss.

Sadler said he thought it would help with the concerns of the traffic on 40th and would like to pursue a median cut.

Williams said they would be doing the rezoning for a driveway and a cut.

Beller said they are only considering the rezoning at this time.

Purcell said Henson didn't have a problem with putting a chain across the entrances at night and asked for confirmation from Henson. Henson said he wouldn't object to that.

CLOSE PUBLIC HEARING

MOTION by Sadler, SECOND by Maples, to approve Ordinance No. 97-50 changing the zoning from R-1 (Single-Family Dwelling District) to R-3 (Multiple-Family Dwelling District) zoning classification located at #8 NW 40th Street.

Sadler said the noise has been a problem but he would rather have them working in two shifts and get it done in half the time than have it drag on forever and they should be lauded for trying to get the job done in a hurry. He said if all the street projects and bridges could be done that way it would be a lot faster and is not a bad thing.

(Title read by Clerk) ORDINANCE NO. 97- 50

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION OF THE TRACT OF LAND WHICH IS HEREINAFTER MORE PARTICULARLY DESCRIBED IN SECTION ONE (1) HEREOF FROM THE EXISTING CLASSIFICATION OF R-1 (SINGLE FAMILY DWELLING DISTRICT) TO R-3 (MULTIPLE FAMILY DWELLING DISTRICT) ZONING CLASSIFICATION; AUTHORIZING CHANGES TO BE MADE UPON THE OFFICIAL ZONING MAP IN ACCORDANCE WITH THIS ORDINANCE.

VOTE ON MOTION: AYE: Green, Maples, Williams, Sadler, Purcell, Shanklin, Beller. NAY: Warren. MOTION CARRIED.

2. Hold a public hearing and consider an ordinance changing the zoning from R-1 (Single Family Dwelling District) to C-5 (General Commercial District) zoning classification located at 2112 NW Oak Avenue. EXHIBITS: ORDINANCE NO. 97- 51 ; LOCATION MAP; SITE PLAN; APPLICATION; MEMORANDUM FROM PRINCIPAL PLANNER; LMAPC MINUTES.

Bigham reviewed the background information and the location of the property on the overhead map.

"BACKGROUND: The rezoning request was submitted August 20, 1997, for Lot 7, Block 2, Moore Addition, immediately east of Mr. Williams' rezoning request considered by the City Council on September 9, 1997. City Council approved a change of zoning from R-1 to C-4 (Tourist Commercial District) zoning classification for Lots 8-10.

The zoning of the surrounding area is R-1 (Single-Family Dwelling District) to the east, C-4 (Tourist Commercial District) to the north and west, and C-5 (General Commercial District) to the south. The land use of the surrounding area is single-family residential to the east and west, commercial/office (Prudential and Countrywide Home Loans) to the north, and vacant commercial (former A & W Root Beer) to the south. The current use of this lot is single-family residential. The applicant proposes to develop this lot for commercial uses.

The Lawton Metropolitan Area Planning Commission approved a change of zoning from R-1 to C-4 which was favorable to the applicant due to the prior zoning change of Lots 8-10."

PUBLIC HEARING OPENED.

Bill Williams said this was a continuation of the zoning request for the adjacent property to a previous request and would appreciate approval of his zoning request.

PUBLIC HEARING CLOSED.

MOTION by Williams, SECOND by Green, to approve Ordinance No. 97-51 changing the zoning from R-1 (Single-Family Dwelling District) to C-4 (Tourist Commercial District) zoning classification located at 2112 NW Oak Avenue.

Purcell said they seem to be zoning one lot at a time and it seems they need to take an overall look at their zoning ordinances and zoning plan for the future in Lawton. He said they may need to appoint a committee or get some experts from some university but it is silly zoning one lot at a time every week.

(Title read by Clerk) ORDINANCE NO. 97- 51

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION OF THE TRACT OF LAND WHICH IS HEREINAFTER MORE PARTICULARLY DESCRIBED IN SECTION ONE (1) HEREOF FROM THE EXISTING CLASSIFICATION OF R-1 (SINGLE FAMILY DWELLING DISTRICT) TO C-4 (TOURIST COMMERCIAL DISTRICT) ZONING CLASSIFICATION; AUTHORIZING CHANGES TO BE MADE UPON THE OFFICIAL ZONING MAP IN ACCORDANCE WITH THIS ORDINANCE.

VOTE ON MOTION: AYE: Warren, Maples, Williams, Sadler, Purcell, Shanklin, Beller, Green. NAY: None. MOTION CARRIED.

3. Consider discussing a format whereby the Council can look at individual needs and requests for those who want to use right of ways or easements, and take appropriate action. EXHIBITS: NONE. CORRECTED TITLE POSTED 10/10/97 AT 9:45 A.M.

Beller said he understood that originally this item was to suspend the Council Rules and have now correctly posted the title to discuss the item.

Shanklin said they may have seen some information on T.V. and some of it was in error. He said Mr. Stamps is trying to extend his fence to the south of his house which would be the north side of Gore into the City right-of-way. He said there aren't any utilities in that area and they should be able to bring any easement or right-of-way infringement to the Council to allow them to make that decision rather than a blanket no that they can't touch these. He said he has asked for the definition of a right-of-way and easement but it was not included in the background information and it may be necessary for Mr. Cruz to enlighten them. He said on Gore and Ft. Sill Blvd.

there are fences that are right up to the right-of-way, 11 feet from the curb, and that isn't taking away from the property values. He said if someone wants to do that and spend the money he couldn't see the City putting a blanket "no" on some individual that wants to enhance their property. He said he didn't know if they could give Mr. Stamps permission tonight, Cruz had told him they would have to modify the Code. He said if it were a side street they could do it but because Gore is an arterial street, the Code says no and that is where they are plus the fact that these individual applications should be decided by Council the same as the median cut for the bank and asked if that is also in their right-of-way. He asked Cruz if there was any way, if Council approved, that they could be authorized to finish the fence before they consider changing the Code.

Cruz said not at this time because it is prohibited, it would require an amendment to the Code which they discussed earlier and it has to go to the LMAPC because it is part of Chapter 18 and would probably take 50 days to go through the process. He said the City Code provides that people can put some of these fences up where a 50' setback is required if it is not an arterial roadway, but does not apply to major arterials such as Gore Boulevard. He said to do what Shanklin is suggesting they would need to amend the Code or it would be in violation of the City Code and the Council would be allowing a violation of the City Code which it cannot do.

Shanklin said they have some now that aren't enforced and could take them to one now but they seem to be scared of addressing that one. He said it was changed by the City Attorney's Office and approved by City Council and now they are in a mess because he doesn't think it is fair.

Cruz said if Council wants to go in that direction asked that Staff be provided sufficient time to make those amendments if it is the Council's desire to provide a similar privilege on arterial right-of-ways.

Purcell said they are talking about right-of-way and asked Shanklin if he is suggesting that items be brought to the Council if someone wants to do something in the right-of-way or are they going to also look at "easements" that have utilities under them and tell one person who wants to build on an easement yes, that come to Council and could then tell the next person no they can't, and if that is what they would be proposing on the easements. Shanklin said no, he wants the easements he is talking about included, and they have the easements that don't have any utilities in them.

Purcell asked if they have utility easements that have no utilities in them. Cruz said there are some designated as utility easements as part of the platting process but there may not be any utilities in those now but could be at a later date.

Warren said it is totally unfair and didn't have anything against what the Bank was trying to do in the previous item but has a problem with the Council one week not allowing John Q. Citizen to build a structure in his easement but then vote for a bank to pave an easement, that is not right and won't be right and can turn it every direction and it isn't right, they either do or they don't.

Maples said not every one is the same. Warren said bring them to Council as Shanklin has suggested and they will decide.

Beller said they need to determine what Shanklin is suggesting.

MOTION by Shanklin, to amend the Code where arterial roads will be included that they can encroach or fence in.

Beller said they need to direct staff.

Shanklin said that was his motion, to direct staff. He asked Cruz if that would have to go back to LMAPC and if it would take six weeks. Cruz said it would have to go to the LMAPC and it would take approximately 60 days.

Cruz recommended the City Council do that rather than blanket because they would be publicly violating the City Code which they are bound to uphold because it is the law of the City.

Warren asked if they amend the direction Shanklin is wanting to amend will that also give them an avenue for a citizen to come to Council to build in the easement and not in the right-of-way.

Cruz said they are talking about right-of-way which is a 50' setback on arterial streets. He said should that amendment be made by Council there will be no need for the applicant to come to Council, it would be within the approving authority of the City staff.

Schumpert said the Code doesn't allow carte' blanche building on the right-of-way or easement, there are some things you can build and other things you cannot, as an example they can build a certain type of fence but can't build any type of fence. He said there are two agendas here, Warren is talking about a change in the Code where if you want to build on a right-of-way or an easement it would be a Council decision where it would go through some process and would end up with Council and asked if that is what the Council members are requesting. He said the

issue under consideration is a building on a right-of-way on an arterial street which is now prohibited by City Code.

Warren said his suggestion would be after the person had been turned down by City staff, if they wanted to bring it to City Council it would be within their power to say there are no utilities so they could build their out-building with a concrete slab and asked if they could do that.

Williams asked if they would know that if utilities needed to be there they would have to move the building. Warren said that was in the revision he asked for the first time and is that way now, there is an understanding if you have fenced your easement or built a building that was grandfathered in the last time they went through that and if the City went in there they would have to move it.

Schumpert said it is only the understanding of the home owner at the time it occurs, the second or third home owner does not have that understanding and almost always has appeared before City Council pleading ignorance and ask the City to compensate them for that or take some other type of action. He related a situation in the Shelter Creek area with the firing range.

Warren said it would be the cowardice of the Council not to tell them just to get over it.

Beller asked Bigham for a response.

Bigham said at the current time there is a prohibition in the Code about encroachments on the right-of-way and provides for a situation where the right-of-way is in excess of 50' for residential streets in the current subdivision regulations, you may build a fence 11' from the curb provided there are no utilities in that area. He said the Code recognizes some flexibility where you have large right-of-ways such as in the Original Townsite North Addition and that only deals with the right-of-way situation. He asked if they want to amend the Code to allow that type of provision when it is located on a major arterial such as Gore. Cruz said that is the motion.

Bigham said in a newer subdivision where the right-of-way is 50' there is no provision to encroach fences on the City right-of-way, it is only basically in the older parts of town where there are right-of-way widths in excess of 50'.

Shanklin said it would be the same line of thought as what is used for Old Town North and similar additions, they are penalized with site triangles, carports and driveways whether or not they are new additions.

Bigham said there is a similar type provision for carports when there is an excessive right-of-way you could encroach provided there are no utilities, etc. He said they are working on a solution for the site triangles. Bigham said this does not address the utility easement issue. Cruz said the motion is for arterial streets.

Shanklin asked if they want a board to review the individual requests, do they want them to come to City Council or will an amendment cover it. Cruz said an amendment will cover what is being suggested, if it meets the requirement a permit will be issued just like it would be for regular city streets.

Beller said the motion is to amend the Ordinance on arterial streets. Cruz said it is to allow the building of fences as it is on non arterial ways.

Shanklin said that was correct, all they have to do is change it.

SECOND to MOTION by Warren.

Green asked for the motion to be restated.

Cruz said the motion is to direct staff to amend part of Chapter 18 so that fences will be permitted along the right-of-way on major arterial streets with the necessary set back of 50'.

Schumpert said there are several things sited in Chapter 18 besides fences. Purcell asked if this will just be for right-of-way's that have no utilities on them, defining a right-of-way as 50 feet.

Sadler asked if this will still have to go to the Planning Commission. Schumpert said yes, Chapter 18 issues have to go before the Planning Commission. Shanklin asked if that is by State Statute or by Council Policy. Cruz said that is the City Ordinance. Shanklin asked why four people from the County have any business voting on something in the City of Lawton.

VOTE ON MOTION: AYE: Maples, Williams, Sadler, Purcell, Shanklin, Beller, Green, Warren. NAY: None. MOTION CARRIED.

4. Consider temporarily suspending Rule 5E of the Councils Rules of Procedures, and, if suspended, consider adopting a resolution establishing a stop light on NW 67th Street at Compass Drive. EXHIBITS: EXCERPT OF

MOTION by Beller, SECOND by Shanklin, to temporarily suspend Rule 5E of the Council's Rule of Procedures to discuss this issue.

SUBSTITUTE MOTION by Purcell, SECOND by Maples, not to temporarily suspend Rule 5E of the Council's Rules of Procedures. AYE: Williams, Purcell, Green, Maples. NAY: Sadler, Shanklin, Beller, Warren. MOTION FAILED.

VOTE ON MOTION: AYE: Sadler, Shanklin, Beller, Warren. NAY: Purcell, Green, Maples, Williams. MOTION FAILED.

Cruz said this item will automatically be brought back to the next Council meeting when the Mayor is present just for the issue of suspension, when there is a tie and the Mayor is absent it is brought back. Shanklin said if the Mayor were here and voted it would still be five to four, there wouldn't be enough votes. Cruz said that is correct because it takes six votes to suspend the rules so bringing it back would not change it.

Shanklin asked Beller to bring it back before Council, they can work on some of these people because he didn't understand where they were coming from.

Cruz said the alternative is for someone to make a motion to reconsider tonight. Beller said he didn't think it was necessary to drag it out but would have appreciated the consideration and if they can't discuss it this is a ridiculous rule and there may be some that don't want to hear it.

5. Consider the proposal from the NAACP to serve as manager of Town Hall in return for office space. EXHIBITS: ROOM USE REPORT; LETTER FROM NAACP; PROPOSED LEASE AGREEMENT.

Dick Huck, Parks and Recreation Director, said Town Hall was managed primarily by the Philharmonic Society and Arts for All until October 1996 when the Philharmonic Society didn't renew their agreement and vacated Town Hall. He said from that point forward the Parks and Recreation aide was reassigned to fill in as the manager of Town Hall with the assistance of Arts for All. He said when they began to reevaluate the management scheme of Town Hall they looked at several issues, not just the economic issues of exactly how much it cost them to open and close the facility as far as staffing. He said the practice prior to October 1996 was that a person would go to Philharmonic, check out a key for their activity and would unlock the building. He said they found it was not in the best interest of the City to continue that type of practice, the integrity of the building was compromised because they had groups coming in and out with little control. He said the present management scheme has the City staff going in at 1:00 p.m. staying in the facility until the last patron leaves, whether it is during the week or on weekends and that individual employee flexes his work schedule to meet the needs of that area. He said The Arts for All manages the facility from 9:00 a.m. to 1:00 p.m.

Huck said during the time they have been managing the building they had been looking at possibilities of whether there were other organizations that would provide the same type of service the Philharmonic provided with some realignment of the contract. He said they talked to numerous groups and the only one that really came forward with any proposal was the NAACP who is interested in providing management to the facility from 1:00 to 5:00 p.m. Monday through Friday. He said he reviewed the proposal and Staff reviewed, over a six-month period, points of information from the proposal that was submitted as well as discussions with staff and the co-manager from Arts for All. He said they took the issue before the Town Hall Advisory Board who met on several occasions and continued to ask the City Staff for additional information dealing with concerns in having a second manager in the facility. He said the conclusion, after reviewing all the options and considering the proposals from the NAACP, as well as the past management practices, the staff and the Carnegie Town Hall Advisory Board recommended that the present management scheme of the Parks and Recreation and Arts for All continue to manage Town Hall.

Maples said after reading the request from Mr. Boyd asked if they are looking for a place for the young people to meet or just adults. Huck said their proposal is strictly for office space in the facility and in exchange would serve as the afternoon managers of Town Hall Monday through Friday, it would not be for activities. He said they could reserve space for various meetings they sponsor the same as they afford all organizations, whether managers or not.

Beller said Mr. Boyd is present to answer any questions the Council members may have.

Huck said they outlined the utilization of the room under consideration as possible office space for a manager, whether it be NAACP or someone else and provided the impact it would have from the past several months. He said they have had 69 reservations serving 580 people.

Purcell said before they had the new procedure with Arts for All in the morning and the staff person in the afternoon he used to get a lot of phone calls complaining about the operation because they evidently had volunteers running it. He said since that time he hasn't received any phone calls other than from people who have used Town Hall and they have been very complementary of how well it has been kept clean in the afternoon by the

person who works for Parks and Recreation. He said the situation they have now with Arts for All in the morning and a City employee in the afternoon seems to be working well.

Huck said the majority of the problems that were issues in the past have been resolved by having total accountability of people using the building where in the past that was not the case.

Beller asked the Council if they wanted to hear from Mr. Boyd.

(The following is a verbatim transcript.)

Boyd: My name is Stephen Boyd, I am the current president of the Lawton Chapter of the NAACP and I have a unique respect for all of you up here, it is a long day and I know you have had many meetings before this so I will try to address this issue in a concise manner. I'm here representing our organization and firstly what I'll ask before I read a prepared statement from our organization, if you have any immediate questions concerning this issue, if not I will proceed on with the prepared statement. I will say that this prepared statement is also coming from some of the masses of membership that we have in our organization, those who could not make it, and rather than have ten or twenty people come up to speak on this issue I have chosen to make it just a comprehensive statement.

Boyd: Firstly, greetings to the Mayor Pro Tem, City Council persons here, as a past vice president of the Arts and Humanities Council, a local coordinator for the HIV and Aids based initiative and current president of the NAACP I come to speak to you on behalf of the organization who say in their own simple minds that double standards need to cease and desist here in our community. Mr. Huck has told you of a general background regarding a relationship, a unique relationship that the Philharmonic had enjoyed for over 16 long years in the Town Hall. Currently that arrangement is in place with the Arts for All. I find it very unique that the NAACP submit a request for proposal and the City Parks and Recreation group has taken it upon themselves to do in depth research on the adequacies of holding or utilizing the LAMS room as opposed for office space occupied by the Philharmonic and what the projected income would be for that when in fact they never did it for the Philharmonic, they never did it for the Arts and for All before they entered that premises. We have a concern within the NAACP that again a certain degree of favoritism is being displayed in the Town Hall itself, on the board there are several individuals that are involved with the organization who have a, how should I say, feeling and loyalty to the arts group and the community. As mentioned earlier, I myself was on the Arts and Humanities Council and one of our ongoing concerns was many projects being submitted on the basis of art and again, I have nothing against arts but our concern there was very little being done for humanity. The Lawton branch of the NAACP is over 40 years old, it is a non-profit organization, the local chapter is represented by its appeal on a volunteer basis, there are no grants, there is no handouts, perse', given to us. We proceed strictly on a labor of love and contributions from individuals here in our community.

Boyd: Upon our proposal that we submitted to Mr. Huck, approximately February time frame, it was learned that Philharmonic had vacated their space that they had occupied and that in discussing with Mr. Huck that potentially another non-profit organization could occupy the space and save money for the City. So what I bring to you is an economic element as well, the NAACP as with the Philharmonic can save the City money in regards to, if I was to look at the current pay rate for the sports facility rec-aide, I believe that is the title, I am going to give you some figures on the minimum level of economic savings for taxpayer's like myself and other people who are here in this room. If I look at the basic scale of pay for the rec-aide it is about \$6.18 per hour, the moneys that were projected and already raised in regards to the occupancy of the space was approximately, so far they have made about \$735 in revenue and if you look at the exhibits that were provided to you, a projection of potentially \$1,400. Well again I took the figure of \$6.18 and I multiplied it times 20 hours a week, this is representative of the four hours a day for five days that the NAACP would hold the office, the number I came up with was approximately \$247.20 multiplied times 50 weeks or so it came to approximately \$5,900 and some change. It is my position, just from the economic standpoint, that the rejection of our proposal was not just economically driven because the numbers do not support that. We submitted our proposal again in February 1997, after our proposal we heard little or nothing from the Town Hall board or the Parks and Recreation. I initiated, by contact with a employee of the City, Mr. Bob Rhoads, after several months of not hearing anything I initiated a call to the Parks and Recreation group concerning this proposal and was handed over to a Roy Crouch, another City employee. Mr. Crouch, just as Mr. Rhoads, assured us, overwhelmingly, there's no problem, we love the proposal and the savings we can do for the City and our department and our budget, knowing many times we're under budget restraints, that it would be an ideal relationship for the NAACP to take over the office space. After that assurance I understand, and our organization understands, that the management of the City is a great responsibility, therefore we were of the mind set that we should not rush this thing and that even though it was important to us we should be sensitive to the fact that of the other responsibilities that the Parks and Recreation had to do, acknowledging that we waiting several more months in regards to a response. When I initiated a call this time around it came to Dick Huck, I was told that he was in fact taking over the responsibilities of this issue. Upon hearing that and making arrangements to meet with Mr. Huck we were once again reassured, no problem with us taking over this space and again it would be a great benefit having another non profit organization support the afternoon management of the Town Hall. This went on for several more months and in accumulation it was approximately eight months, on the day of Friday, September 19, I contacted Mr. Huck. I explained to him that the delays seemed to be increasing and I spoke with him over the

phone and he assured me that the following Monday it would all be taken care of. This following Monday was September 22, of this year, I called Parks and Recreation and left a message and Mr. Huck, for Mr. Huck to call me, he never did. Tuesday, 23rd, same time I continued to call until he was in. Mr. Huck said that he decided to reject the NAACP proposal, needless to say after eight months of persistence, perseverance and patience I felt that I deserved a reason for all of a sudden this change in position. Over the phone Mr. Huck decided, he sounded somewhat insensitive, in a rush and again, because of his responsibility, phones can be misleading but he did say that as the director of the Parks and Recreation he was not accountable to me and he gave me, he, that in fact, that he didn't have to give me an explanation for his reason. Now if he was running a privately owned golf course or other business I would concur but in fact just as a tax paying citizen and a person that contributes to the budget of the Parks and Recreation, again as many of the individuals in this room do, I felt that I did deserve an explanation for this change in position. Mr. Huck went on to say that he was in a bad mood, we'll set a meeting for Friday and that in doing so we both could sit down and understand some of the in's and out's of this situation. At the Friday meeting he apologized for his rush in positioning and I appreciate that, I understand that there is a lot going on with the operation of this business but he went on to say that in the first initial Town Hall meeting the Town Hall Board requested that the Parks and Recreation provide a contract or submit an agreement contract form with the City Attorney, have him review it, submit it to the Town Hall Board and in fact they would enact this proposal. Well apparently, somewhere along the line, through negative statements, negative projections about the NAACP as far as being a political, militant, extremist organization there was a reservation on giving us this space. I'm here to tell you that those misconceptions are neither true, they're totally false. But putting myself in Mr. Huck's position he had a situation that could have been very simply done, drawing up the contract, executing it and continuing a long term relationship with the NAACP as it was enjoyed by the Philharmonic. But again the frustrations over outside forces chose him in my opinion and in the opinion of our organization too, rather than keep delaying it and hemming and hawing about it and being boggled down with this by outside forces he chose to just reject the proposal. To a certain degree that is the easy way out but the problem doesn't go away because in itself there is a double standard, you have a situation where tax paying citizens, members of the NAACP and those who are not members, are subsidizing the arrangement of the Arts and for All to be occupied in that building. It is our opinion that in fact if you will reject the proposal of the NAACP then in fact everyone should be removed from having access to that facility under those arrangements.

Beller: Mr. Boyd, I don't mean to rush you but if you could kind of get to the point so we can move along if you would please. Pardon? What we are trying to do is get some pertinent facts out where we can make a determination on what should be done and I think we've kind of got the gist of what has happened and what we need to do and if there are some points that we need to cover.

Citizen: Hold on for a second, as a citizen I would like to hear the whole story.

Beller: Well you probably have sir, and I'm sure all these gentlemen would like to hear but what I am asking you is to try to be more concise. Mr. Boyd if you please.

(The Citizen interrupted Beller several times).

Boyd: Thank you Mr. Mayor Pro Tem.

Beller: I'm not trying to be discouraging, I'm trying to get it moving along.

Boyd: Okay, Sir, in a nut shell you have an economic situation that was presented to you by Mr. Huck in the sense of the projected income being approximately \$1,400 that is projected for the year and you have that in your exhibit. I have submitted to you, for your approval, the fact that by the NAACP being in that office you have a situation of \$5,900 being saved in taxpayer costs in revenue, that is one point. The other point in a nut shell is that you have a situation that two organizations, one being the Philharmonic and then the other being the Arts for All enjoying the benefits of office space in that facility and then another organization submitting a proposal and it not only being rejected but it seems like there is some underlying favoritism. It is my position that I present to the City Council that the City get out of the favoritism business.

Maples: Mayor Pro Tem I am really tired of the accusations, if we can just get to the point of this matter.

Green: Stephen why don't you just tell the related issues of what, when you are going to be housed in Town Hall, some of the things that you are going to be in tune with as far as the community is concerned, that is what they want to hear.

Boyd: Very good.

Beller: I think we have pretty much touched on it. I think one of the things that I'd be concerned with, is in fact the room leased or rented through 1998, December of 1998.

Schumpert: It is a projection based on the past.

Boyd: Councilwoman Green has made a statement for me to let it be known what the NAACP brings to involvement in the space that is utilized in the Town Hall.

Beller: I think that is what we need, that would be great.

Boyd: The Lawton branch of the NAACP currently is working to fulfill the betterment of our community. In doing so we have initiated some programs, the programs are designed to motivate people in the community to think positive, our objective is to be supported by every church across the City. When the notion hit the streets of Lawton and Ft. Sill that there was a possibility for office space for the NAACP, many businesses, churches, organizations and individual rallied to start giving us office material. The goal of the NAACP as well as to sponsor educational forums in the community designed to educate the membership about issues of social problems that exist in our community. We have a lot of problems social problems in our area, the NAACP is one of the few organizations that's taken up the challenge to deal with them. In order to deal with the magnitude to deal with them and the overwhelming volunteer support that we are getting we are requesting that we can utilize the space in the Town Hall to continue to conduct and carry out that mission. We have arranged youth workshops, tours and visits to local government leaders. In doing so we have designed this to better educate people who are currently not knowledgeable on how the city schemes are run, it is a educational, it is a social and it is a civic based organization designed to do that. We are prepared to conduct youth activities that will broaden their knowledge of discipline and properly respectfully design elements that will contribute in a positive way to our city's growth. We have already continued organizing. What I am trying to tell you in a nut shell is that the NAACP is growing in a massive type of way as never before. When the opportunity came about from the vacationing of the space from the Philharmonic we thought it was an ideal opportunity to continue this effort and we did not think, we as Mr. Huck believed, it was going to be an open and shut case. But again through some twist of dialog we have been perceived as a group of people that would be more of a liability than an asset to the community. And I am here and other people are here to reinforce the fact that that is not the case. We will also will say this to you as well we are not looking for a handout, indeed what we are looking for is a helping hand to continue our efforts into the 21st century.

Beller: I think we have pretty well gotten the gist of it now and I think we have allotted enough time to cover it and I would ask at this time if any of the Council members have any questions they would like to ask.

Green: I have no questions.

Williams: Where are you folks presently officed at.

Boyd: Currently I'm a business owner here in the Lawton community and I'm running it out of my business and we'd like to make a transition out of that if we could.

Beller: We certainly thank you, I think it has been informational. I didn't mean to be rude and cut it but it was a considerable amount of information I think for us to digest.

Boyd: In closing, I do have a closing statement, it's very important that I read it.

Beller: Quickly?

Boyd: Yes I will, sir. We're asked that the City Council consider a serious reevaluation of Mr. Huck's recommendation for us to co-locate harmoniously with the Arts for All. The alternatives are very, have very little prospect of achieving any positive results for the future. By rejecting the NAACP's proposal and allowing the Arts for All to stay will begin a relentless unrest in our community, something that they haven't seen the likes in 30 years. The other alternative is to cancel the current contract with the Arts for All and not let any organization have space in the Town Hall. This alternative doesn't assist in saving the tax payers money and it doesn't maximize the City's personnel resources, and it certainly doesn't project an image that the City is looking out for the taxpayer's and the community's interest. Again, I would ask that as a current member of the class of the 1997-98 Leadership Lawton program it's important to me as well as our organization to demonstrate its faith in its people and joining us in reinforcing a positive, the positive principles as we get closer to the 21st Century. With this motion and then your vote we hope that you project that right is right, wrong is wrong and in our humane world double standards don't belong. God Bless each of you and thank you for time and patience in giving us the opportunity.

Green: I would like to make a motion that we approve the proposal for the NAACP for the office space in Town Hall in considering the fact that they are going to be presenting educational information to the community, working with young people and having youth activities going on within the Town Hall building.

Williams: Second.

Beller: Motion has been made and seconded, is there any discussion on the motion.

Williams: I think it is a good idea personally. Mr. Boyd you were very informative and I don't know that there is a

double standard but you folks might understand, feel that way. I sort of take to heart in one respect if one group's in there and another group's asked to be in there and they are not availed to be in there for whatever reason and I can appreciate staff's position as well. I don't see any harm in it myself. Council?

Beller: The only comment I'd have is I think that an office space would be an office space and I think activities within the Library concept itself would probably be, have to be on the same basis as everyone else, on an availability basis if you would. I don't think, you didn't intend for activities to take place within the office itself.

Boyd: No sir, in fact we discussed that with Mr. Huck and in general we agreed that we would have to be in line just like everyone else.

Shanklin: Well I don't consider the NAACP in the same mode as Arts for All, Arts for All is a group of everyone and NAACP isn't. I did read a letter that was sent to KKRX, formally KKRX and it was attributed to Mr. Boyd and I didn't bring it with me tonight, did you author that letter.

Boyd: I'm sorry I don't know what letter.

Shanklin: You never did see the letter that went to all of the news media.

Boyd: No I did not sir.

Shanklin: To fire all of the white secretaries.

Boyd: No, I certainly would not, did you see my signature on that.

Shanklin: It was attributed to you.

Boyd: Well that is pretty bad but you know there is a little bit.

Shanklin: You never seen that letter.

Boyd: No sir but I wish you would have brought that. You know there are negative forces out there that will do things.

Shanklin: Nobody didn't know about it but if you read the letter or wrote the letter you'd understand what I'm talking about.

Beller: Right now we've got a motion and a second and we're in a discussion with Mr. Purcell.

Purcell: Yes one of the things I brought up before was that when we had a group in there managing this all day that's where we had the problems. We seem to have solved those problems by having staff in there. Also, the Carnegie Town Hall Board also recommended that we reject this proposal. Based on that I'd like to make a substitute motion that we reject the proposal from the NAACP for office space in Town Hall.

Maples: Second.

Beller: Motion's been made and second to substitute motion to reject it. Any discussion on the motion?

Sadler: I'd just like to add on the numbers that those are your numbers of \$5,900 but if we had a City staff person in there that was doing nothing but just checking in keys and stuff those might be more accurate but if the guy has any other responsibilities as far as what he is doing in the building and needed to be there any way then I just want to make it plain that I don't believe those numbers are accurate.

Boyd: Those numbers are based on what I was submitted.

Beller: Any more Council People? Any more discussion with the Council. Would you call the roll please on the Substitute Motion to deny.

(End of Verbatim.)

VOTE ON SUBSTITUTE MOTION: AYE: Purcell, Shanklin, Warren, Maples, Sadler. NAY: Beller, Green, Williams. MOTION CARRIED.

Cruz said he needed to make a statement and correction based on what was said on a previous item.

(The following is a verbatim transcript.)

Boyd: Sir, is that item tabled, is that it, was that the result of it.

Beller: No the rejection was approved 5 to 3 that they rejected your proposal Mr. Boyd.

Boyd: So in doing so, you are saying that the Arts for All will remain.

Beller: I don't have any idea what the Arts for All will do.

Cruz: The only issue before the Council, Mr. Boyd, is whether to lease you the space.

Boyd: And the double standards.

Cruz: No sir, you asked what the action was, the action was to deny leasing to you the space in Town Hall as you propose.

(End of verbatim.)

Cruz said the correction to Item number 4 that the item would automatically come back at the next Council meeting, he stood corrected in that it doesn't come back because the Charter states that if it is a 4 - 4 vote and the Mayor is not present it will come back if it requires 5 votes but the vote to suspend the rules requires 6 votes so it will not automatically come back.

6. Consider an amendment to a contract between the City of Lawton (Lender) and Debra A. Martin, A Single Person (Borrower), to subordinate the City's mortgage on her property at 4410 NW Baltimore and take appropriate action. EXHIBITS: LETTER OF REQUEST. (Documents on file in City Clerks Office)

Schumpert said the Council has seen several of these requests where an individual has borrowed money through the First Time Home Buyers Program. He said the buyer borrows money through the program and the City secures a second mortgage for the money with certain conditions one of which is if they live on the property and maintain the property each month of residence is considered a payment toward what looks like an amortization. He said there have been several of these where the individual comes before the Council to change the arrangement, normally the City is the holder of the first mortgage position and in this case the City is recommending disapproval based on the mortgage and total liens on the property which would equal 115% of the appraised value and under that criteria the City would not have loaned them money in the first place.

Shanklin said staff has recommended denial on all of the properties they have taken second place.

Purcell said in accordance with Council Policy he has a conflict of interest and will not participate in the discussion. Purcell left the Chambers at this time.

Shanklin asked if this is similar to the last three or four they have done and taken second place on.

Tom Aplin, Housing Assistance Division, said it is similar, they have recommended denial because the total liens exceed the 75% criteria that they have established.

Shanklin said it is similar to the others except in this instance it is 115% of the appraised value and the others were not. He asked if Ms. Martin is here and asked her if \$158 would make that much difference.

Debra Martin said it would, she doesn't plan on moving and she won't be given another opportunity like this and doesn't plan on moving in 15 years.

Green said this is the first one they have done where there were children involved.

MOTION by Green, SECOND by Shanklin, to approve the request to subordinate the property and attach a second mortgage to the property.

Warren said he will not be able to support this for the same reason as always.

Williams said he normally supports these but normally the monies and time are a lot closer.

Shanklin said this gives her a chance to make it and if they turn her down and don't give her the opportunity she won't be able to make it.

Warren said his question won't make any difference and asked how long the balance of the car loan that is being paid off has been in effect, and when the car was purchased. Martin said the car was purchased in 1995. Warren

said that would have been purchased after the original agreement was signed.

Green said Martin is a single parent that needs a chance.

Maples asked if she has been making her payments on time. Schumpert said as long as she stays on the property and maintains it as the principle home owner each month is considered a waiver of payments.

Beller said \$158 a month to Ms. Martin is a lot of money and have looked at the people who have come forward before and this shouldn't be any different. He said they are trying to be humane in their efforts and this is another opportunity to help someone.

Shanklin said the projected interest rate is 12% and asked if it is 12% or 10% and the response was that the interest rate is 8.6% with a total payment of \$398 and right now she is paying \$700 so her savings will be closer to \$300 a month.

Williams asked why they don't have the proper information for the interest in the packet. Response was that the information was based on the first set of pre qualifications.

VOTE ON MOTION: AYE: Shanklin, Beller, Green, Maples, Williams, Sadler. NAY: Warren. OUT: Purcell. MOTION CARRIED.

Purcell returned to the Chambers at this time.

7. Consider enacting a new ordinance establishing the requirement that the owner or manage of a business or commercial establishment be notified prior to service being discontinued for nonpayment of utility charges. EXHIBITS: ORD. NO. 97-__.

Schumpert said this issue arose at a previous Council meeting and it was the consensus of the Council to consider this so he initiated the item. He said the staff position is not to enact it and to look at several other changes to be considered which will in fact have an impact prior to finding the owner or manager to deliver a notice to.

MOTION by Williams, SECOND by Green, to approve an Ordinance establishing the requirement that the owner or manager of a business or commercial establishment be notified prior to service being discontinued for nonpayment of utility charges.

Purcell asked how they will ever be able to notify these people when they go to turn it off if the owner or manager isn't there.

Maples said it would be the highest ranking employee of the business at that time.

Schumpert said that is what they do now, they go into the business and ask who is in charge and that individual is who they give the notice to. He said in the case that brought rise to this issue the individual in charge failed to give the notice to the owner who was at another location and the water was turned off and when they checked, found the notice on the manager's desk but according to the owner it was the City's fault because the City didn't tell the right person. He said the staff is saying when they go into a business and provide notice that should be sufficient, if that person is in charge they should be responsible enough to handle it from thereon. He said an owner may avoid them and they may never be able to notify them except by certified mail which may be several days later.

Shanklin said there needs to be a dollar value to this, not to single those out that may not be as large as others, but a two or three man company or one operator of a firm that has a \$40 or \$50 bill is not the same as someone who has 40 to 50 employees and a bill of \$300 or \$400. He said if the bill is over \$200 they should contact the owner but if it is \$75 or \$80 they know they have a water bill and it is not like a company they are talking about that occurred in the past, the bill was over \$300 and that was for one month. He said there needs to be a dollar value and asked if Schumpert would have a problem with that. Schumpert said he wouldn't have a problem with that.

Purcell said he had a problem with how practical this would be to work, the business gets the water bill and doesn't pay it for 20 days, the City sends a shut off notice to the owner or business and then go and hang the door knocker and asked if that is what they are talking about. Schumpert said for a residence if someone is home they give it to them, if no one is home they hang a door knocker, in the case of a business they go only when they are open and it would be the same as the door knocker.

Purcell said they have already notified the business by letter and would have assumed the manager, owner or someone got the letter and now they are doing the door knocker and if the manager isn't in, what do they do, keep going back until they are there. He said it seems if they made this to be given to the owner, manager or senior employee present, this would work but they could go back forever trying to give a door knocker to someone if there is no manager or owner there and couldn't see how it could practically work. He asked how many times would they

go back to give them this notice.

Williams said it probably only occurs a handful of times a year and it puts the City of Lawton in the position of being in tune to what the customer's needs are and if for instance they haven't gotten the bill and if they are sending certified mail someone will pay for it or sign for it somewhere but it just adds another level of professionalism that this City provides to its commercial water customers.

Warren asked if they aren't given two warnings in the mail because they get their first bill which they know they owe, they get their second bill for the next month with the past due amount and then get a letter. Schumpert said that is correct, they are actually getting three notices before the water is shut off.

Shanklin said they are doing a good job the way it is and they need to go along with staff and asked if Schumpert is apprised when someone has a bill of \$300 or \$400. Schumpert said he is now.

SUBSTITUTE MOTION by Shanklin, SECOND by Purcell, to deny enacting a new ordinance. AYE: Beller, Warren, Sadler, Purcell, Shanklin. NAY: Green, Maples, Williams. MOTION CARRIED.

8. Consider adopting an ordinance establishing the payment date for drop box payments. EXHIBITS: ORDINANCE NO. 97-52.

Schumpert said City Hall has two drop boxes, one at the drive thru window and a mail box, which meets all the security requirements, located at the north end of the parking lot which are checked at 8:30 a.m. and at 4:30 or 5:00 p.m. He said this ordinance provides that if there is a payment in the box at 8:30 a.m. that was due the day before it will be counted for that day and will not have a penalty on it, it will be accepted as full payment. He said this is not for late payments where the water had been turned off when the bill comes in.

MOTION by Williams, SECOND by Warren, to adopt Ordinance No. 97-52 establishing the payment date for drop box payments.

(Title read by Clerk) ORDINANCE NO. 97- 52

AN ORDINANCE RELATING TO UTILITIES, ENACTING A NEW ORDINANCE ESTABLISHING PAYMENT DATES FOR UTILITY PAYMENTS DEPOSITED IN DROP BOXES AND PROVIDING FOR CODIFICATION.

VOTE ON MOTION: AYE: Green, Warren, Maples, Williams, Sadler, Purcell, Shanklin, Beller. NAY: None. MOTION CARRIED.

9. Consider adopting an ordinance amending Section 22-115A, Chapter 22, Lawton City Code, 1995, deleting the provision relating to refund of utility deposit. EXHIBITS: ORDINANCE NO. 97- 53.

Schumpert said one of the basic problems on late payments is that when they charge the reconnect fee, the late penalty and the amount owed to them and include the deposit, in some cases with businesses where the deposit may be several hundred dollars, that causes an onerous position so they are saying once they put up the deposit the City will keep that deposit and when they leave they will get their deposit back.

Shanklin asked if the City has to pay interest on that. Schumpert said not by law. Shanklin said they can take the interest and use it. Schumpert said it would be in a deposit account and does not know how much is in there at this time.

Shanklin asked if they have to pay interest on it. Cruz said no they don't.

Schumpert said if you can't pay the water bill you certainly can't pay two water bills, the reconnect and the deposit. MOTION by Green, SECOND by Maples, to adopt Ordinance No. 97-53, amending Section 22-115A, Chapter 22, Lawton City Code, 1995, deleting the provisions relating to refund of utility deposit.

Williams said when the City customer leaves the service does he get his deposit back. Schumpert said he does, less any charges.

(Title read by Clerk) ORDINANCE NO. 97- 53

AN ORDINANCE RELATING TO UTILITIES, AMENDING SECTION 22-115A, CHAPTER 22, LAWTON CITY CODE, 1995, DELETING THE PROVISIONS RELATING TO REFUND OF UTILITY DEPOSIT.

During roll call Shanklin said if he hasn't put up a deposit and is delinquent on a water bill would he have to put up a deposit. Schumpert said if he is delinquent to the point of turning off the water he wouldn't have to put up a deposit, only after the water is turned off.

VOTE ON MOTION: AYE: Warren, Maples, Williams, Sadler, Purcell, Shanklin, Beller, Green. NAY: None. MOTION

CARRIED.

10. Consider adopting an ordinance amending Section 22-104A, Chapter 22, Lawton City Code, 1995, eliminating penalties from those charges for which service may be discontinued for nonpayment. EXHIBITS: ORDINANCE NO. 97- 54

Purcell said right now you get a water bill and if it isn't paid on time or is a couple days late you get credit for the payment but the penalty is on the bill. He said the next time you get a water bill you are told it is late but all that is late is the penalty which has to be paid by "X" date which is within approximately 10 days and pay your next water bill 10 days after that which is crazy. He said people are paying their water bills and failing to pay the penalty, right or wrong, and they don't realize it is there or do and don't pay it and then the City turns their water off for a \$5 or \$10 penalty and then they have to go through the whole process. He said with this ordinance if there is a penalty, instead of turning off the water etc. they just put the penalty onto the next month's bill, then if you don't pay the next month's bill to include the penalty you are delinquent.

MOTION by Purcell, SECOND by Warren, to adopt Ordinance No. 97-54 amending Section 22-104A, Chapter 22, Lawton City Code, 1995, eliminating penalties from those charges for which service may be discontinued for nonpayment.

Sadler said he didn't know why they haven't advertised that the City has the ability to draft a customer's checking account for the water payment which would be taken out on their last day so they wouldn't lose any interest or anything and 90% of these problems could be eliminated.

Williams said the City may not have an average monthly payment plan but it may be something that staff could look at each year.

Warren said they are the only utility in the City where a person cannot pick up the phone and change information such as if they get married etc. He said if it is a female she can't change the name on the account by calling, she has to come to City Hall with three copies of the divorce decree and marriage certificate and birth certificate and asked if there is any way where they can become like others and be able to do those transactions over the phone.

Schumpert said there are people who have the ability to find out your account number, your name, your wife's name and social security numbers and for whatever reason will call and tell them that a person is no longer married and to take that person's name off the water account. He said they do that and then the bill goes somewhere else, they don't get a water bill and their water is shut off and then the resident finds out the City acted on a telephone call they received. He said he doesn't know how the other utility companies deal with that if they have a pen number or how they work that.

Warren asked Williams how PSO gets around that. Williams said he thinks they trust people. Schumpert said they have attempted to trust people and it doesn't work.

Warren said he has never understood because everything he has ever needed to do with ARKLA, Cablevision or PSO etc., he has been able to take care of with a telephone call but with the City utilities he has to go into the office.

(Title read by Clerk) ORDINANCE NO. 97- 54

AN ORDINANCE RELATING TO UTILITIES, AMENDING SECTION 22-104A, CHAPTER 22, LAWTON CITY CODE, 1995, AS AMENDED BY ORDINANCE 96-26, ELIMINATING PENALTIES FROM THOSE CHARGES FOR WHICH UTILITY SERVICE MAY BE DISCONTINUED FOR NONPAYMENT.

VOTE ON MOTION: AYE: Maples, Williams, Sadler, Purcell, Shanklin, Beller, Green, Warren. NAY: None. MOTION CARRIED.

11. Consider approving plans and specifications, declaring an emergency, waiving the competitive bidding process and authorizing a funding source for the Council Heights Addition Waterline Project 97-21. EXHIBITS: LOCATION MAP.

Schumpert said the funding source is indicated to be the 1995 CIP and there is \$3,592,625 remaining in the account that is not encumbered and this was the second project, the first project was rejected by the City Council, all the other projects in this agenda are part of a project listed in the program and this is the only project that would impact that balance.

Purcell said Item 29 is \$146,000 and understood that was taken into consideration and asked where it is on the list they were provided. He said if they are not careful they will run out of CIP money and not have enough for the \$1.3 million project.

Jerry Ihler said Item 29 is in the \$3 million in the Wolf Creek drainage. Shanklin said the \$3 million wasn't

appropriated it was set aside, ear marked, it is not in concrete. Schumpert said it is set aside based on Council direction.

Shanklin asked how many interested firms would be bidding on this project. Ihler said they sent out notices to all of the firms that generally bid, they had a meeting with those that were interested and there were three or four that attended the meeting and they may get three bids.

MOTION by Shanklin, SECOND by Green, to approve plans and specifications, declare an emergency and waive the competitive bidding process for the Council Heights Addition Waterline Project 97-21. AYE: Williams, Sadler, Purcell, Shanklin, Beller, Green, Warren, Maples. NAY: None. MOTION CARRIED.

12. Consider approving plans and specifications for the Bar S Sewer Facilities Project. EXHIBITS: GRAVITY SEWER OPTION; LIFT STATION OPTION; MEMORANDUM FROM CITY ENGINEER.

Beller said this looks like an item that would be a win-win situation.

Ihler said in the sewer rehab they were proposing to put in the 24" line in the same location that the force main alternative is being placed and it seemed silly to put a force main in for a period of 10 to 15 years which should last 50 to 60 years and then come back and tear it out to put in the 24". He said they had to ask them to do the alternative of the gravity flow in addition to the forced main and will see what the bids are and look at the alternatives. He said after they receive the bids they will request Council to take action on the difference between the two or however they wish to fund it or if they wish to fund the difference. He said it would be staff position to do the gravity alternative.

Schumpert said they believe that LIF is going to make a legitimate claim that they committed to this alternative and since they are changing the alternative they should bear the addition of the alternative expense and that will be up to Council.

Shanklin asked what the additional expense will be. Schumpert said it hasn't been bid yet so they don't know.

Beller said if they look at the long term savings on the pumps they would prefer that. Ihler said there will be some cost savings to the City by going to the gravity flow.

Beller said the background information referenced the City Engineer having reviewed the plans and found them in "substantial compliance" and asked what that means. Ihler said there were a couple of minor items that needed to be revised on the plans, and since the time of the agenda item the Engineer has addressed those problems with regards to an addendum that has been sent to the bid holders so there are no outstanding items.

MOTION by Williams, SECOND by Shanklin, to approve plans and specifications for the Bar-S Sewer Facilities Project subject to the conditions listed. AYE: Sadler, Purcell, Shanklin, Beller, Warren, Maples, Williams. NAY: None. OUT: Green. MOTION CARRIED.

13. Consider allocating \$12,500 from Council Contingency Fund to pay the Receivers fees and for cleaning the property at 1302 Southwest "I" Avenue, and authorize payment of \$4,700 for same. EXHIBITS: NONE.

Cruz said the property was owned by Eddie and Judy Barbee, it was a mobile home park and they filed a suit against the City to prevent or restrain the City from enforcing their Code, the City went to court and the judge ordered the City to abate the problem and a lot of the trailers were in non compliance with the City Code. He said a receiver was appointed to assist in clearing and cleaning that area and in removing the mobile homes. He said Mr. John Kinslow was appointed by the court as the receiver and the estimated cost for cleaning up the property was \$12,500, Mr. Kinslow has submitted a bill for \$4,700 which includes his fee plus the cost of the people to clean and abate the problem. He said he doesn't have any money in his account to handle this and is requesting the Council to set aside, from their contingency, \$12,500 and out of that authorize payment of \$4,700 to Mr. Kinslow.

Maples said they are only in October and the City Attorney is already out of money. Cruz said he has a \$29,000 balance in his Professional Services Account.

Purcell said he thought they were going to use CDBG funds and asked why they are not using CDBG money. Cruz said they had originally asked the CDBG people if the activity was eligible for CDBG funding and the answer was yes but they hadn't asked what it would take to do it. He said in order to make it eligible for CDBG funding they have to go through programming and designating the area as a project area which would have taken three to four months and the court ordered the City to abate it or else.

Williams asked if they could pay it out of some fund and then get it back on CDBG.

Cruz said no, in order for CDBG funds to be paid they have to already be appropriated and it has to go through the budget and programs.

MOTION by Purcell, SECOND by Williams, to authorize payment of the Receiver's expenses incurred to date in the amount of \$4,700 coming out of the City Attorney's Account with an IOU if he runs out of money by the end of the year.

Cruz said as of yesterday he had \$29,000 in his professional account, he has notified other people that they may have to help pay for defense of the cases and depositions.

VOTE ON MOTION: AYE: Purcell, Shanklin, Beller, Green, Warren, Maples, Williams, Sadler. NAY: None. MOTION CARRIED.

14. Consider awarding contract for property insurance and authorize expenditure of Council Contingency Funds. EXHIBITS: VENDORS MAILING LIST; TABULATION; RECOMMENDATION.

Purcell asked where the money comes from right now. Schumpert said they have an account set up but they don't have that much in the account, the budget category had \$76,700.

MOTION by Purcell, SECOND by Maples, to award the contract for Property Insurance to The Hartford Insurance Company through Towe, Hester & Erwin, Inc., Lawton, Oklahoma, authorize the Mayor and City Clerk to execute the contract.

Purcell said it would be an IOU.

Shanklin said there is only one responder to the RFP and one of the insurance people didn't respond because they didn't have any company that would want to come back in due to the loss they had in May a year or so ago.

VOTE ON MOTION: AYE: Shanklin, Beller, Green, Warren, Maples, Williams, Sadler, Purcell. NAY: None. MOTION CARRIED.

15. Consider adopting a resolution rescheduling the November 11 and December 23, 1997, regular Council meetings. EXHIBITS: RESOLUTION NO. 97- 122.

Beller said the Resolution reschedules the November 11 meeting to November 10 and the December 23, meeting to December 16.

Williams said he would be out of town on November 10.

MOTION by Green, SECOND by Maples, to adopt Resolution No. 97-122. AYE: Beller, Green, Warren, Maples, Williams, Sadler, Purcell, Shanklin. NAY: None. MOTION CARRIED.

(Title only) RESOLUTION NO. 97- 122

A RESOLUTION RESCHEDULING THE FIRST REGULARLY SCHEDULED COUNCIL MEETING IN NOVEMBER AND THE SECOND REGULARLY SCHEDULED COUNCIL MEETING IN DECEMBER.

CONSENT AGENDA:

16. Consider the following damage claims recommended for denial: Steve B. and Scarlet D. Dumler; Victavia Giles; and Kan Haul Services. EXHIBITS: LEGAL OPINIONS/RECOMMENDATIONS. Action: Deny claims as recommended.

17. Consider the following damage claims recommended for approval and consider passage of resolutions authorizing the City Attorney to file friendly suits for the claims over \$400.00: Donald and Marlies Burdine; Donald R. and Sylvia M. DeVilbiss; Eugene D. and LaRue Looper; and Scott Dee and Monique C. Preston. EXHIBITS: LEGAL OPINIONS/RECOMMENDATIONS. Action: Approve claims as recommended. DeVilbiss: \$269.25; Looper: \$175.00. BURDINE CLAIM CONSIDERED SEPARATELY AS SHOWN BELOW AS RESOLUTION NO. 97- 123 AS SHOWN BELOW.

(Title only) RESOLUTION NO. 97- 124

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO ASSIST SCOTT DEE AND MONIQUE C. PRESTON IN FILING A FRIENDLY SUIT IN THE DISTRICT COURT OF COMANCHE COUNTY, OKLAHOMA, AGAINST THE CITY OF LAWTON; AND AUTHORIZING THE CITY ATTORNEY TO CONFESS JUDGMENT THEREIN IN THE REDUCED AMOUNT OF SEVEN HUNDRED NINETY-TWO AND 39/100 (\$792.39).

18. Consider approval of Council Policy 1-7 regarding the release of draft minutes under the Open Records Act. EXHIBITS: PROPOSED COUNCIL POLICY 1-7. Action: Approve Council Policy 1-7.

19. Consider setting a date of November 25, 1997, to hold a public hearing to consider an ordinance closing the easement between Lots 19-24 and Lots 25-30, Block 1, Koehler Addition. EXHIBITS: APPLICATION; NOTIFICATION MAP; COUNCIL POLICY NO. 5-1. Action: Set date of November 25, 1997, to hold a public hearing

as recommended.

20. Consider a resolution authorizing the installation and/or removal of traffic control devices at specified locations. EXHIBITS: RESOLUTION NO. 97- 125; EXCERPT FROM MINUTES OF 9/18/97 TRAFFIC COMMISSION MEETING.

(Title only) RESOLUTION NO. 97- 125

A RESOLUTION AUTHORIZING THE INSTALLATION AND/OR REMOVAL OF TRAFFIC CONTROL DEVICES AT CERTAIN DESIGNATED LOCATIONS WITHIN THE CITY OF LAWTON, OKLAHOMA. Actions: Remove "Caution Deaf Child" signs at NW 19th and Columbia; Install "Stop" sign at T-intersection of NE Tortise Drive and Rogers Lane for northbound approach; Install "Yield" sign at T-intersection with NW 9th St. and Turtle Creek Drive for southbound approach; Install "Stop" sign at T-intersection of SW 27th at G Avenue for westbound approach; Install "No Parking" signage along north side SW D Avenue and south side of E Avenue from SW 27th to University Drive; Install "Do Not Enter" sign at first drive south of Cache Road on west side of NW 67th Street for northbound traffic.

21. Consider denying requests for installation of traffic control devices at specified locations. EXHIBITS: EXCERPT FROM MINUTES OF 9/18/97 TRAFFIC COMMISSION MEETING. Action: Deny requests.

ITEM 22 WAS CONSIDERED SEPARATELY AS SHOWN BELOW.

23. Consider approving Amendment No. 2 to the lease agreement between the Lawton Water Authority and the City of Lawton. EXHIBITS: NONE. Action: Approved Amendment No. 2.

24. Consider ratifying the actions of the Lawton Water Authority extending the lease term between El Pache Energy, Inc., and the Lawton Water Authority for use of surface rights on a 3.0 acre tract of land in the SW/4 of Section 11, T4N, R11W, I.M., in the vicinity of Lake Ellsworth. EXHIBITS: NONE. Action: Extended lease term.

25. Ratify the action of the Lawton Water Authority in funding the rehabilitation of the Wastewater Collection System as required by Phase I of the Consent Order with the Oklahoma Department of Environmental Quality. EXHIBITS: NONE. ITEM WAS PULLED FROM THE AGENDA.

26. Consider approving the application for membership and service contract with the Credit Bureau of Lawton, and authorize the Mayor to execute the contract. EXHIBITS: APPLICATION FOR MEMBERSHIP; SERVICE CONTRACT. Action: Approved item.

27. Consider entering into a professional services agreement between the City and Ken Barnes. EXHIBITS: AGREEMENT. Action: Approved item; Jeremy Alford, et al v. City.

28. Consider entering into a retainer agreement for legal services between the City and Atty. Dennis Morris. EXHIBITS: AGREEMENT. Action: Approved item; special prosecutor in Municipal Court.

ITEM 29 CONSIDERED SEPARATELY AS SHOWN BELOW.

30. Consider entering no objection to a permanent closure of a 25 feet by 100 feet right of way subject to the reservation of a 5 feet by 25 feet drainage and utility easement adjacent to 207 NE Angus Street and authorize the City Attorney to enter no objection subject to the reservation of the easement to the closure in District Court. EXHIBITS: NONE. Action: Approved item.

31. Consider approving an agreement between the City of Lawton and the Lawton Heritage Association, Inc. for carrying out the Mattie Beal Home Project. EXHIBITS: NONE. Action: Approved agreement for renovation of Mattie Beal roof in the amount of \$15,000.

32. Consider adopting a resolution establishing the Fire Prevention and Education Fund. EXHIBITS: RESOLUTION NO. 97- 126.

(Title only) RESOLUTION NO. 97- 126

A RESOLUTION ESTABLISHING THE CITY OF LAWTON FIRE PREVENTION AND EDUCATION FUND.

ITEM 33 CONSIDERED SEPARATELY AS SHOWN BELOW.

34. Consider awarding a construction contract for the Lake Lawtonka Dam Hand Rail Project 97-8. EXHIBITS: BID TABULATION. Action: Awarded construction contract to Big Bobs in the amount of \$7,940.

35. Consider awarding a construction contract for the Pump Station #2 Pump Replacement Project 97-20 to Bowen Construction, Inc. in the amount of \$30,474.00. EXHIBITS: BID TABULATION. Action: Awarded

construction contract to Bowen Construction, Inc. in the amount of \$30,474.

ITEM 36 CONSIDERED SEPARATELY AS SHOWN BELOW.

37. Consider accepting the Lawton View CDBG Waterline Project 96-6 as constructed by S.M. Burk Mechanical Contractors and placing the maintenance bond into effect. EXHIBITS: LOCATION MAPS. Action: Accepted project.

38. Consider accepting the 1997 Waterline Replacement Project 97-1 as constructed by HBH, Inc. and placing the maintenance bond into effect. EXHIBITS: LOCATION MAPS. Action: Accepted project.

39. Consider acknowledging receipt of permits for the construction of water lines and sanitary sewer lines from the Oklahoma State Department of Environmental Quality to serve Heritage Hills, Part 2, City of Lawton, Comanche County, Oklahoma. EXHIBIT: NONE. Action: Acknowledged receipt of permits covering 1,256 lf of 8" plus 5,320 lf of 6" PVC water line and 1,256 lf of 10" plus 5,320 lf of 8" sewer line.

40. Consider awarding contract for digital dictation system. EXHIBIT: VENDORS MAILING LIST; TABULATION; RECOMMENDATION. Action: Entered into a lease purchase agreement with Tobyne & Co., Inc., Dallas, TX for purchase of Digital Dictation System from Dictaphone Corp., Oklahoma City, OK.

41. Consider awarding contract for laptop computer. EXHIBITS: VENDORS MAILING LIST; TABULATION; RECOMMENDATION. Action: Awarded contract to Microwold, Torrance, CA.

42. Consider awarding contract for building security system. EXHIBIT: VENDORS MAILING LIST; TABULATION; RECOMMENDATION. Action: Awarded contract to Sooner Security Service, Lawton, OK.

43. Consider awarding contract for water line parts. EXHIBITS: VENDORS MAILING LIST; TABULATION; RECOMMENDATION. Action: Awarded contract to Pioneer Supply, Moore, OK; Water Products of Oklahoma, Inc., Owasso, OK; and Oklahoma Contractors Supply, Oklahoma City, OK.

44. Consider awarding contract for easement rodders. EXHIBITS: VENDORS MAILING LIST; TABULATION; RECOMMENDATION. Action: Awarded contract to Midwestern Equipment Company, Oklahoma City, OK.

45. Consider awarding contract for canopy covers. EXHIBITS: VENDORS MAILING LIST; TABULATION; RECOMMENDATION. Action: Awarded contract to Sun Port International, Inc., Dallas, TX.

46. Consider awarding contract for push mowers. EXHIBITS: VENDORS MAILING LIST; TABULATION; RECOMMENDATION. Action: Awarded contract to Eastons, Inc., Lawton, OK.

47. Consider entering into an agreement for the disposal of unusable refuse containers. EXHIBITS: VENDORS MAILING LIST; TABULATION; RECOMMENDATION. Action: Entered into agreement with Hobart Salvage, Hobart, OK, for disposal of unusable refuse containers and authorize staff to coordinate this action with the vendor.

48. Consider extending contract for flow meter inserts 6" and 10". EXHIBIT: VENDORS MAILING LIST; TABULATION; RECOMMENDATION. Action: Extended contract with Automatic Engineering, Inc., Tulsa, OK, to 10/31/98 at same terms.

49. Consider extending contract for galvanized delineator posts. EXHIBIT: VENDORS MAILING LIST; TABULATION; RECOMMENDATION. Action: Extended contract with Vulcan Signs, Foley, AL, to 10/31/98 at same terms.

50. Consider extending contract for rear suspension repairs. EXHIBIT: VENDORS MAILING LIST; TABULATION; RECOMMENDATION. Action: Extended contract with Loden Spring Suspension, Inc., Wichita Falls, TX, to 12/31/98 at same terms.

51. Consider extending contract for 1997 uniform violation complaint books. EXHIBITS: VENDORS MAILING LIST; TABULATION; RECOMMENDATION. Action: Extended contract with Colorgraphics "The Print Shop", Lawton, OK, to 1/31/99 at same terms.

52. Consider extending contract for dry barrel fire hydrants. EXHIBITS: VENDORS MAILING LIST; TABULATION; RECOMMENDATION. Action: Extended contract with Oklahoma Contractors Supply, Oklahoma City, OK, to 1/31/99 at same terms.

53. Consider extending contract for symbols and roll goods. EXHIBITS: VENDORS MAILING LIST; TABULATION; RECOMMENDATION. Action: Extended contract with 3M, St. Paul, MN; and Rocal, Inc., Frankfort, OH, to 11/30/98 at same terms.

54. Mayors Appointments. EXHIBITS: NONE.

Lawton Human Rights & Relations Commission:
Portland Douglas, Native American Rep., to 9/30/99
MSG Mechille McDonald, Fort Sill Rep., to 9/30/99
Melva Wermey, Native American Rep., to 9/30/99
Samantha Worley, African American Rep., to 9/30/99

Parks & Recreation Commission:
Dennis Mullins, Ward 6, to 9/28/99

McMahon Auditorium Authority:
David F. Sandstrom to 6/30/98

55. Consider approval of payroll for the period of October 6 through 19, 1997. EXHIBITS: NONE.

Beller said Cruz requested separate consideration of Item 17 for the Burdine claim; Shanklin requested separate consideration of Item 33; Green requested separate consideration of Items 22 and 36; and Williams requested separate consideration of Item 29. Cruz said Item 25 will be posted for consideration.

MOTION by Shanklin, SECOND by Sadler, to approve the Consent agenda with the exception of Item 17 Burdine claim, Items 22, 29, 33 and 36, and to remove Item 25 from the Agenda. AYE: Green, Warren, Maples, Williams, Sadler, Purcell, Shanklin, Beller. NAY: None. MOTION CARRIED.

17. BURDINE CLAIM.

Cruz said Ms. Burdine submitted a claim for \$9,000 based on a sewer back up and they found out today that when she submitted the amount of \$9,000 she had already depreciated some of the cost of the damages of personal property items. He said in addition they had undervalued several unique items such as an Oriental rug and silk screen and based on that information recommended the claim be approved in the amount of \$8,500 which Ms. Burdine willingly and freely agreed to accept.

MOTION by Shanklin, SECOND BY Williams, to approve the claim of Donald and Marlies Burdine in the amount of \$8,500 and adopt the Resolution. AYE: Warren, Maples, Williams, Sadler, Purcell, Shanklin, Beller, Green. NAY: None. MOTION CARRIED.

(Title only) RESOLUTION NO. 97- 123

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO ASSIST DONALD AND MARLIES BURDINE IN FILING A FRIENDLY SUIT IN THE DISTRICT COURT OF COMANCHE COUNTY, OKLAHOMA, AGAINST THE CITY OF LAWTON; AN AUTHORIZING THE CITY ATTORNEY TO CONFESS JUDGMENT THEREIN IN THE REDUCED AMOUNT OF EIGHT THOUSAND FIVE HUNDRED DOLLARS (\$8,500.00).

22. Consider adopting a street light resolution to authorize installation and removal of additional street lights in residential areas. EXHIBITS: STREET LIGHT RESOLUTION 398.

Green said she wanted to bring this to the attention of the general public that they are placing lights on 13th and Bishop; 14th and Bishop; Jesse Davenport and Bishop; and 16th and Bishop.

MOTION by Green, SECOND by Shanklin, to adopt street light Resolution No. 398. AYE: Maples, Williams, Sadler, Purcell, Shanklin, Beller, Green, Warren. NAY: None. MOTION CARRIED.

29. Consider awarding a contract to Triad Design Group (formerly RGDC, Inc.) for professional engineering design services for the construction of detention reservoir B-1. EXHIBITS: LOCATION MAP; LETTER FROM TRIAD DESIGN GROUP. Fee is \$146,000.

Williams asked if Triad is RGDC. Ihler said that is correct before they recently changed their name. Williams asked if Ihler had checked out RGDC and if they had some major problems. Ihler said there were some problems in a project they had been awarded in the architectural area and they won't be dealing with an architectural project but with a civil hydraulic project and their references regarding that type work were fine and had good references.

MOTION by Williams, SECOND by Purcell, to award a contract to Triad Design Group for professional engineering design services for the construction of detention reservoir B-1.

Shanklin asked if they have told them how much they are allowing them for a fee or do they come up with a fee. Ihler said they come up with their own fee and for a project of this size, based on a very preliminary estimate of the project costs they have provided, they have guessed that it would be approximately 6% of the construction cost.

Shanklin asked if this is part of the \$3.5 million that had been discussed earlier. Purcell said yes, it has already been accounted for.

VOTE ON MOTION: AYE: Williams, Sadler, Purcell, Shanklin, Beller, Green, Warren, Maples. NAY: None. MOTION CARRIED.

33. Consider approval of Change Order No. 1 for the Wastewater Treatment Plant Expansion Project 97-2 with Cajun Contractors. EXHIBITS: NONE.

Shanklin said he pulled this item because it is a change order for over \$38,000, has read through them and some of them sound and look good. He asked why they went from fiber to begin with. Ihler said the fiber was considered the least corrosive of any of the material and as the engineers were reviewing the submittals an alternative of aluminum was suggested. He said they looked at the aluminum alternative and it meets all City and Fire Codes and in addition allows them to do away with the sprinkler system because they are not using the fiber. He said they didn't include that in the specifications in the beginning because that is what had been specified and used on other jobs.

Shanklin said Item 5 uses fiber. Ihler said Item 1 is in the Solid Collection building and Item 5 is a conduit in a trench and are using a PVC conduit to place the fiber-optics in to provide some protection in case they are hit because when they are hit it costs approximately \$5,000 to repair the fiber-optics. He said they felt that the additional expense to lay those in PVC conduit was well worth the cost.

Shanklin said Item 8 increases the project by \$33,000 with the sludge rings and asked why they didn't have those if they are such a good deal. Ihler said at the staff level when they went through the review and looked at the video tapes of this type of clarifier they thought they were getting the sludge rings and it wasn't until they received the bids and were going through the submittal process that they realized the sludge rings were not in what they had requested and bid. He said they wanted the sludge rings back in because they are much more efficient and they have estimated they would receive a pay back on the cost of those sludge rings within a three year time period.

MOTION by Shanklin, SECOND by Williams, to approve Change Order No. 1 in the amount of \$38,746.16 and zero additional contract days for the Wastewater Treatment Plant Expansion Project 97-2 with Cajun Contractors. AYE: Sadler, Purcell, Shanklin, Beller, Green, Warren, Maples, Williams. NAY: None. MOTION CARRIED.

36. Consider acknowledging completion of the asphalt overlay of NW 21st Street from Cache Road to Ferris Avenue as constructed by the City of Lawton Street Division. EXHIBITS: 9/18/97 STREET DIVISION MEMORANDUM.

Green said she meant to pull Item 37 and wanted to bring this to the general public's attention that the Lawton View water line project 96-6 was constructed by Burk Mechanical Contractors and was under CDBG money and was completed on September 15.

MOTION by Green, to accept this Item.

Williams said the area of Ferris and Cache Road that the Street Department has worked on looks good and if they haven't had a chance to drive this area it is very smooth.

Purcell said the funding source is showing they approved the \$17,000 in the Council Contingency and asked if that is in there or did it roll over into the 1997. Ihler said no, that is in there, the \$17,000 was taken from the 1995 Council Contingency and the remainder of the difference came out of the Street Division Budget.

Shanklin asked if they had done that in this fiscal year. Purcell said they did it last year on June 10, they authorized the \$17,000 and took it out of Council Contingency.

Schumpert said they paid more for the project because instead of overlaying the road they fixed the sub-base so they wouldn't have to go back later and do it again.

MOTION by Williams, SECOND by Green, to acknowledge completion of the asphalt overlay of N.W. 21st Street from Cache Road to Ferris Avenue as constructed by the City of Lawton Street Division. AYE: Purcell, Shanklin, Beller, Green, warren, Maples, Williams, Sadler. NAY: None. MOTION CARRIED.

BUSINESS ITEMS:

56. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to consider a settlement offer received in the civil suit styled Michael D. Cornish dba Cornish Properties vs. City of Lawton, Case No. CJ-93-253, and Michael D. Cornish dba Cornish Properties vs. City of Lawton, Case No. CS-97-138, in the

District Court of Comanche County, and take appropriate action in open session. EXHIBITS: NONE.

57. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending grievance and award in the matter of IUPA and William H. Mathis against the City of Lawton, FMCS 97-25621-7, and take appropriate action in open session. EXHIBITS: NONE.

58. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a lawsuit styled Frank Hawthorne and Bob McCaffree vs. The City of Lawton, Oklahoma, Case No. CJ-97-1087, in the District Court of Comanche County, and take appropriate action in open session. EXHIBITS: NONE.

ADDENDUM ITEM:

1. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a lawsuit styled Vivian G. Jackson vs. The City of Lawton, Oklahoma, Case No. CIV-97-1574R, in the United States District Court for the Western District of Oklahoma, and take appropriate action. EXHIBITS: NONE.

MOTION by Shanklin, SECOND by Sadler, to convene in executive session as shown on the agenda. AYE: Sadler, Purcell, Shanklin, Beller, Green, Warren, Maples, Williams. NAY: None. MOTION CARRIED.

The Mayor Pro Tem and Council convened in executive session at 9:00 p.m. and reconvened in regular, open session at 9:25 p.m. with roll call reflecting all members present.

Cruz said the Council met in executive session to discuss the four items on the agenda on the first item relating to the Cornish law suit and recommended the Council adopt a motion to reject the settlement offer.

MOTION by Williams, SECOND by Warren, to reject the settlement offer. AYE: Shanklin, Beller, Green, Warren, Maples, Williams, Sadler, Purcell. NAY: None. MOTION CARRIED.

Cruz said on the item relating to Bill Mathis he asked the Council to authorize him to appeal this matter.

MOTION by Shanklin, SECOND by Green, to appeal the grievance. AYE: Beller, Green, Warren, Williams, Sadler, Purcell, Shanklin. NAY: Maples. MOTION CARRIED.

Cruz said the Hawthorne and McCaffree law suit against the City and the Vivian Jackson law suit against the City needed no action.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER.

Schumpert said the Council members should have received information on the First Home Time Buyers Program which is beginning again and will be accepting applications through October 31 and indicates the income limits. He said the person purchases the home, the City brings it up to Code and as long as they occupy the home it is essentially rent free. He said there will be an interpreter at the October 28, meeting for the deaf and hearing impaired and if everyone is talking at the same time the interpreter will have a difficult time. He said there will be some other events planned for the Council members and was not sure if they would be willing to participate or not.

Williams said he won't be at the October 28, meeting.

Schumpert said the concrete award is in Phoenix and they are intending to send Jerry Ihler and Mike Johnson and asked if any of the Council members would like to go, it will be held on a Saturday and the staff will be going overnight. Shanklin said it is the same date as the conference in Philadelphia for those Council members that are going. Ihler said the award is December 6 and the ceremony is Saturday from 8:00 to 10:00 a.m.

Schumpert said the trash options are available and Ihler and Staff are ready to come back to Council with those options and recommended holding a special meeting to talk about them. The Council members discussed a date for a special meeting to discuss the once a week grass pick up and once a week trash and agreed to hold a special meeting on October 30 at 5:00 p.m. for the trash and grass clippings options.

Beller asked how the new 911 EMT was working out. Schumpert said it is working quite well, however he received a grievance from the union yesterday indicating they had unilaterally changed the services to citizens of Lawton, it degraded those and they couldn't do that. He said the matrix in the newspaper was incorrect but the one the Council received was correct. He said they have the ability, once the police officer gets on the scene, to have a fire unit respond. Beller said there is always a question of how long it takes a police unit to respond and they always had such a tremendous response from the Fire Department EMT units which respond within a matter of minutes over the ambulance and police units and it seemed like one of the best services they have. Williams said he thought the citizens would pay and other Council members agreed. He said that they fail to realize what the true value is of the services that this community provides its citizenry and the citizens would probably pay for that. Shanklin said

they have always been a quick responder and don't need to be running a \$250,000 apparatus if they can come up with other vehicles to make some of these runs.

Schumpert said they either need to get in the business or get out of the business, they have fire fighters to fight fires. He said if they are going to get into the business they need to get into mandatory EMT training and be checked and certified because there is a tremendous potential for litigation of these matters which is one of the reasons physicians won't stop at accidents in the U. S. because they get sued all the time. He said they have been lucky that no one has chosen to suit them and their current situation is voluntary although all of the stations have trained employees. He said if they are going to get into it then they can get vehicles and charge and that would be an ambulance service and instead of privatizing and allowing the business to handle it if they want to take part of that away they can do that themselves as a service. Schumpert said they don't make every run because they may be fighting a fire somewhere or on another run.

Purcell said they need to compliment the Police Department, they received their report through the month of September and the violent crimes rate is down 23% from 1996 which includes homicides, rapes, robberies and assaults and non violent crimes, burglaries, arsons and auto theft's are down 2% so there must be something they are doing right and that is a significant decrease in violent crime over last year.

Shanklin said he and Beller had asked for a noise decibel gun of some kind where they can put an unmarked car on the street and get the vehicles that are clattering the cups and saucers. He said it should be an ordinance because when they get to court the judge asked what the song or words were. He said they need a gun to show what the sound level is according to the ordinance and then get a ticket. He said they could make some revenues through those and understands they don't have a gun that determines the amount the noise exceeds. Sadler asked if the ordinance references being 25 feet from the vehicle.

Shanklin requested that the decibel gun be researched. Beller asked if there is any way they can consider the issue of profanity, without trampling on rights, that is heard coming from these sound machines. He said he was at the Post Office at 52nd and Cache Road and there was a woman with two small children that had to walk by a vehicle that was playing the most vulgar music he has ever heard and it was really booming.

Shanklin said he had an occasion to call 911 on a Saturday morning, tried the police station and didn't get a response. He said the first time he called 911 it rang 12 times, redialed 911 and it rang 4 times and was busy and when he called again it was picked up after two rings. He said it was at 9:00 a.m. Saturday, the same day of the girl's soft pitch softball at 38th and Lee when Mr. Jackson had called him requesting the police officers be visible instead of hiding to catch people coming in from Louisiana. He said when he reached the police chief he was told the police officers were present based on a complaint that had been called in and they were going to write ticket. He said he finally reached the traffic captain on duty at that time and it bothered him because if he really would have needed them he couldn't have reached them.

Schumpert said they would have to check the tapes to see what was going on at that time because they have four operators and probably had four calls they were dealing with. Warren asked if they could put it on an answering system where the people are put on hold and the number is locked in so when someone gets on the line, even if the person is not able to talk, they would at least have the phone number on a busy signal or on a non answer. Schumpert said there are occasions when all people are on calls.

Shanklin asked what MIS is that Mr. Baker is in charge of. Purcell said it is Management Information Systems. Schumpert said it is all of the computer systems, programs, software and maintenance of the computers and software programs. Shanklin said he saw a letter pertaining to go go girls and games that the employees wouldn't have access to, they would be blocked from City computers. Schumpert said when they connected into the InterNet they were provided with unlimited information and a fire wall can be put up to block information that isn't needed to be accessed. He said some items the police department has access to that other departments don't and it is on a case by case basis where computers will have a certain amount of limited access. He said as a general rule the City computers will not have access to sports and leisure and the fire wall allows them to block that access.

Williams asked if the Council members could get a list of employees and their addresses who can be accessed through the InterNet. He asked where they are with the Museum agreement. Cruz said the agreement is in its final stage of review which they will then present to the Institute for its comments and is trying to get that out for November 1 and they are ahead of schedule. He said the Institute was to create and have in place a trust agreement indenture for the trustees by September 1 but have not done that at this time. He said the agreement with the City is supposed to be in place by January 1 and the lease agreement for the facilities the first of May and are ahead of schedule. He said the Trust Indenture to be created for the Trust was supposed to be completed by September 1, they didn't get it until late September and the attorneys are reviewing that and by the end of next week should be able to get their comments back to Paul Fisher with the Institute.

Green said the public awareness housing seminar is being held at the H. C. King Center at 6:30, October 16 and at the Owens Multi-Purpose Center on October 30 at 6:30. She said the seminar is for those citizens that are

interested in owning a home, are in need of repairing or rehabilitating their homes, or any type of housing problems. She said the notice received this evening could also be made available. Schumpert said it would be.

Purcell said the redistricting needs to be done because according to the Charter they are supposed to have the redistricting done prior to December 31, 1997, the Charter says 1992 and December 31 and every five years after and they need to begin meeting. He said he is getting complaints about the phone system where people call through to a City department and when they finally get the number they need the line is busy and then have to go through it all over again. He said they need to fix the phone system so when they get to the City Manger for example it refers back somewhere even if it is to start over.

There was no further business to consider and the meeting adjourned at: 9:45 p.m.